IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 291 of 1996

Between:

The Krishna Dist. Panchayat Raj Employees Coop. Building Society Ltd.,(H.617)
Rep. by its President V. Venkateswar Rao, s/o Kotaiah,
R/o Machilipatnam, Krishna dist.

..... PETITIONER

AND

1 The District Collector
Krishna dist.
2 the Revenue Divisional officer,
Bandar.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction, preferably writ of Mandamus, directing the respondents to exempt the members of Plot- holders of sites from auction under R.R. Act as they have already remitted the required amounts vide cheque dt:2.1.96 and not to interfere with the rights of such members except in accordance with law,

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent Nos 1 and 2: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

On the request made by the petitioner-society, the Government acquired some land in Chilakalapudi Village as per provisions of the Land Acquisition Act, 1894 and allotted the same to the society for the purpose of house sites to the members of the society. Thereafter, on a writ petition in W.P. No. 11600 of 1994, filed by the owners of the land, this Court by order dated 20-9-1995 directed the 2nd respondent to pay additional market value and solatium to them.

While so, the petitioner states that some of the members of the society paid their share of the cost of the plot allotted to them to the 2nd respondent, while some of them have not paid. Apprehending that respondents are contemplating to initiate proceedings under the Revenue Recovery Act against all the members of the society notwithstanding the fact that some of the members have paid their share of the cost of the plots, and some have not, the present writ petition is filed seeking a direction to the respondents to exempt the members of the society, who have paid the amount towards the cost of the plots allotted to them by the society, from the proposed action.

Even though the writ petition is admitted as far back as in the year 1996, no counter affidavit is filed so far.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

As can be seen from the averments in the writ petition, the Government has acquired some land from the land owners as per the provisions of the Land Acquisition Act 1894, and allotted the same to the petitioner-society for house sites to its members, and some of the members of the society paid the cost of the plots to the society, which paid the same to the Government for payment of the same to the land owners towards additional market value and solatium, while some of the

members of the society have not paid their share of the cost of the plots. The land, admittedly, is acquired by the Government for the benefit of the Society, and at its request, and incidentally its members are the beneficiaries. Though the members of the society are the beneficiaries of the acquired land, but inasmuch as the land has been acquired for the benefit of the society, irrespective of whether all the members of the society have paid their share of cost of the plots allotted to them, the society has to pay the cost of the land to the Government, for paying the same to the landowners. According to the own admission of the petitioner, the society, it is still due and liable to pay some amount to the Government, and therefore, it is not quite unnatural, when the money is not paid, for the respondents to recover the same by proceeding against the society under the provisions of the Revenue Recovery Act. If some of the members of the society have not paid their share of the cost of the plots, it is for the society to proceed against them for recovery of the cost of the plots, in accordance with the bye-laws of the society, but certainly in the guise that some of its members have not paid their share of cost of the plots, the society cannot seek to stall the recovery of the amounts due and payable by them to the Government nor can it be allowed to contend that some of the members who paid the cost of the plots, be exempt from the recovery proceedings.

For the above reasons, I see no merit in this writ petition. The writ petition is accordingly dismissed. No costs.

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11-11-2004

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To:

1 The District Collector
Krishna District
2 Revenue Divisional officer,
Bandar.

3. Two C.Cs. to G.P. for Revenue, High Court of A.P. Hyderabad(OUT)

4. Two C.D. copies